

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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JAN 24 2005

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 04-427
Table of Allotments,) RM-11127
FM Broadcast Stations.)
(Ammon, Idaho))

ATTN: Secretary, Federal Communications Commission
TO: Assistant Chief, Audio Division, Media Bureau

COUNTERPROPOSAL

Laramie Mountain Broadcasting, LLC ("LMB"), pursuant to Section 1.420, submits this Counterproposal in the above-captioned proceeding. This Counterproposal is in response to the Commission's Notice of Proposed Rulemaking DA-04-3812 (released December 3, 2004) (the "NOPR") and is timely filed by the NOPR comment deadline.

The NOPR proposes, at the request of Justin Robinson ("Petitioner") the allocation of Channel 283A at Ammon, Idaho as the community's first local aural transmission service. LMB proposes the allotment of 283A to Dubois, Idaho at 44° 10' 34 N.L. and 112° 13' 48 W.L. Channel 283A can be allocated to Dubois, Idaho with no site restrictions. See attached Technical Statement.

Dubois is a community for allocation purposes. Dubois is the county seat for Clark County, Idaho. Dubois has a population of 647 people and Clark County has a population of 1,100. Neither Dubois nor Clark County have any allocated radio stations. Dubois has its own US Census Bureau designation as a city, is incorporated, and is the county seat of Clark County. See attached Declaration of Jessica DeLoach.

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LMB's proposal to allocate a first service to Dubois is preferred over the proposal to allocate a new allotment in Ammon, Idaho, even though Ammon is a larger community. Ammon is a suburb of Idaho Falls, Idaho, which is an urbanized area. See attached Urbanized Area Outline Map (Census 2000). A proposal to allocate a channel to a suburban community, as proposed by Petitioner, does not automatically mean the proposed suburban community should be granted a first local service preference. The Commission considers evidence under three factors to determine whether a suburban community deserves a first local service preference: (1) signal population coverage; (2) the size and proximity of the suburban community relative to the adjacent communities; and (3) the interdependence of the suburban community with a central city. See, *Faye and Richard Tuck*, 3 FCC Rcd. 5374 (1988); *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd. 10352 (1995).

Under the Commission's *Tuck* analysis, Ammon is not entitled to a first local service preference. It appears likely that the Ammon proposal will result in a 70 dbu signal of over 50% or more of the Idaho Falls urbanized area. The size and proximity of Ammon relative to Idaho Falls further supports that the proposed reallocation is in reality a move to Idaho Falls. Ammon is small community that is part of the Idaho Falls metro area. As compared to Idaho Falls, with a population of 50,730, Ammon is a smaller community, with a population of 6,817, that is dependent upon Idaho Falls and Bonneville County for much of its services.

Under the *Tuck* analysis, it is clear that Ammon is not independent from Idaho Falls. See *Faye and Richard Tuck* ("*Tuck*"), 3 FCC rcd 5374 (1988). According to the 2000 US Census information, Ammon is part of the Urbanized Area of Idaho Falls. In fact, Ammon borders Idaho Falls.

Although Ammon is incorporated as a city, it receives many of its services from Idaho Falls and/or Bonneville County, of which Idaho Falls is the county seat.

In *Tuck*, 3 FCC Rcd 5374 (1988), the FCC sets forth an eight-point criteria regarding the designation of an area as a "separate and distinct community." In *Parker and Port St. Joe, Florida*, 11 FCC Rcd 1095, 1996 ("Parker"), the FCC stated that by providing evidence which supports a majority of the eight factors set forth, the FCC would consider the area in question as a separate and distinct community.

In a discussion with Diane Gempler, the City Clerk and Treasurer of Ammon, Idaho, Ms. Gempler conveyed the following information: Ammon is a bedroom community of Idaho Falls. The majority of its residents work in Idaho Falls. Ammon is dependent upon the County of Bonneville for its police, schools, courts, and much of its services. Ammon does not have its own newspaper, rather the residents receive the Post Registrar of Idaho Falls. Ammon does not have its own post office, nor does it have its own phone book. The residents and businesses of Ammon are listed in the Idaho Falls phone book and the post offices are located in Idaho Falls. The residents of Ammon travel to Idaho Falls for hospital and health services. Ammon has over 5 miles of shared border with the city limits of Idaho Falls. Ms. Gempler opined that Ammon is trying to be separate, but at this date it is just a suburb of Idaho Falls. See attached Declaration of Timothy R. Obitts.

Here, Ammon cannot meet five out of the eight criteria set forth in *Tuck*:

1. *Whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area.* According to the office of the commissioners for Bonneville County, of which Ammon is a part, Ammon is a bedroom community of Idaho Falls and the majority of its residents commute to Idaho Falls for work. According to the City Clerk and Treasurer of Ammon, Ammon is a bedroom community of Idaho Falls and is not separate and distinct from Idaho Falls.

2. ***Whether the specified community has its own local government and officials.*** Ammon is dependent upon Bonneville County to provide it with public schools, emergency response services, law enforcement, courthouse, prosecution of criminals, etc.

3. ***Whether the smaller community has its own telephone book provided by the local telephone company or zip code.*** Although Ammon has its own zip code, it is part of the Idaho Falls phone book and the post office is Idaho Falls.

4. ***Whether the community has its own commercial establishments, health facilities and transportation systems.*** Ammon does not have its own hospital, nor transportation systems.

5. ***The extent to which the specified community relies on the larger metropolitan area for various municipal services, such as police, fire protection, schools, and libraries.*** As stated above, Ammon is dependent on Bonneville County and/or Idaho Falls to provide it with its various municipal services, such as police, fire protection, schools, and libraries.

6. ***Whether the smaller community has its own newspaper or other media that covers the community's local needs and interests.*** Ammon does not have its own local newspaper or other media. Rather, the residents of Ammon receive the Post Registrar of Idaho Falls.

7. ***The extent to which the specified community and the central city are part of the same advertising market.*** It appears that Ammon is part of the same advertising market as Idaho Falls. It is contiguous with Idaho Falls, part of the same metropolitan area, and is considered a bedroom community or suburb of Idaho Falls.

It is clear that Ammon, Idaho, according to the *Tuck* analysis and is not a separate and distinct community from Idaho Falls, Idaho.

The public interest is, therefore, best served by allocation of Channel 283A to Dubois as that community's first local station. Ammon, which is in actuality part of Idaho Falls, is already well served by at least five FM allotments.

WHEREFORE, it is respectfully requested that the Commission make the following allocation:

<u>Community</u>	<u>Channel</u>
Dubois, Idaho	283A

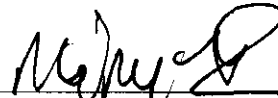
LMB will file an application if Channel 283A is allocated to Dubois, Idaho and, if its application is granted, will promptly construct the facilities.

Respectfully submitted,

LARAMIE MOUNTAIN BROADCASTING, LLC

GAMMON & GRANGE, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807
(703) 761-5000

By: _____


A. Wray Fitch III
Timothy R. Obitts

January 24, 2005

[K:\0524\Ammon Counterproposal.awf]

Idaho Falls, ID 40996

North Arrow

Scale: 1 inch = 1 mile

Legend

Water

Land

Highway

Other

[illegible]

NAME	ADDRESS	CITY	STATE
James Smith	123 Main St.	New York	NY
John Smith	456 Main St.	New York	NY
Robert Smith	789 Main St.	New York	NY
William Smith	101 Main St.	New York	NY
Richard Smith	202 Main St.	New York	NY
Charles Smith	303 Main St.	New York	NY
Thomas Smith	404 Main St.	New York	NY
James Smith	505 Main St.	New York	NY
John Smith	606 Main St.	New York	NY
Robert Smith	707 Main St.	New York	NY
William Smith	808 Main St.	New York	NY
Richard Smith	909 Main St.	New York	NY
Charles Smith	1010 Main St.	New York	NY
Thomas Smith	1111 Main St.	New York	NY
James Smith	1212 Main St.	New York	NY
John Smith	1313 Main St.	New York	NY
Robert Smith	1414 Main St.	New York	NY
William Smith	1515 Main St.	New York	NY
Richard Smith	1616 Main St.	New York	NY
Charles Smith	1717 Main St.	New York	NY
Thomas Smith	1818 Main St.	New York	NY
James Smith	1919 Main St.	New York	NY
John Smith	2020 Main St.	New York	NY
Robert Smith	2121 Main St.	New York	NY
William Smith	2222 Main St.	New York	NY
Richard Smith	2323 Main St.	New York	NY
Charles Smith	2424 Main St.	New York	NY
Thomas Smith	2525 Main St.	New York	NY
James Smith	2626 Main St.	New York	NY
John Smith	2727 Main St.	New York	NY
Robert Smith	2828 Main St.	New York	NY
William Smith	2929 Main St.	New York	NY
Richard Smith	3030 Main St.	New York	NY
Charles Smith	3131 Main St.	New York	NY
Thomas Smith	3232 Main St.	New York	NY
James Smith	3333 Main St.	New York	NY
John Smith	3434 Main St.	New York	NY
Robert Smith	3535 Main St.	New York	NY
William Smith	3636 Main St.	New York	NY
Richard Smith	3737 Main St.	New York	NY
Charles Smith	3838 Main St.	New York	NY
Thomas Smith	3939 Main St.	New York	NY
James Smith	4040 Main St.	New York	NY
John Smith	4141 Main St.	New York	NY
Robert Smith	4242 Main St.	New York	NY
William Smith	4343 Main St.	New York	NY
Richard Smith	4444 Main St.	New York	NY
Charles Smith	4545 Main St.	New York	NY
Thomas Smith	4646 Main St.	New York	NY
James Smith	4747 Main St.	New York	NY
John Smith	4848 Main St.	New York	NY
Robert Smith	4949 Main St.	New York	NY
William Smith	5050 Main St.	New York	NY
Richard Smith	5151 Main St.	New York	NY
Charles Smith	5252 Main St.	New York	NY
Thomas Smith	5353 Main St.	New York	NY
James Smith	5454 Main St.	New York	NY
John Smith	5555 Main St.	New York	NY
Robert Smith	5656 Main St.	New York	NY
William Smith	5757 Main St.	New York	NY
Richard Smith	5858 Main St.	New York	NY
Charles Smith	5959 Main St.	New York	NY
Thomas Smith	6060 Main St.	New York	NY
James Smith	6161 Main St.	New York	NY
John Smith	6262 Main St.	New York	NY
Robert Smith	6363 Main St.	New York	NY
William Smith	6464 Main St.	New York	NY
Richard Smith	6565 Main St.	New York	NY
Charles Smith	6666 Main St.	New York	NY
Thomas Smith	6767 Main St.	New York	NY
James Smith	6868 Main St.	New York	NY
John Smith	6969 Main St.	New York	NY
Robert Smith	7070 Main St.	New York	NY
William Smith	7171 Main St.	New York	NY
Richard Smith	7272 Main St.	New York	NY
Charles Smith	7373 Main St.	New York	NY
Thomas Smith	7474 Main St.	New York	NY
James Smith	7575 Main St.	New York	NY
John Smith	7676 Main St.	New York	NY
Robert Smith	7777 Main St.	New York	NY
William Smith	7878 Main St.	New York	NY
Richard Smith	7979 Main St.	New York	NY
Charles Smith	8080 Main St.	New York	NY
Thomas Smith	8181 Main St.	New York	NY
James Smith	8282 Main St.	New York	NY
John Smith	8383 Main St.	New York	NY
Robert Smith	8484 Main St.	New York	NY
William Smith	8585 Main St.	New York	NY
Richard Smith	8686 Main St.	New York	NY
Charles Smith	8787 Main St.	New York	NY
Thomas Smith	8888 Main St.	New York	NY
James Smith	8989 Main St.	New York	NY
John Smith	9090 Main St.	New York	NY
Robert Smith	9191 Main St.	New York	NY
William Smith	9292 Main St.	New York	NY
Richard Smith	9393 Main St.	New York	NY
Charles Smith	9494 Main St.	New York	NY
Thomas Smith	9595 Main St.	New York	NY
James Smith	9696 Main St.	New York	NY

[illegible][illegible]

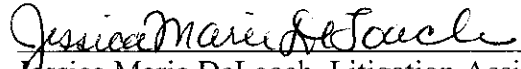
URBANIZED AREA ON TOWN MAP (Census 2000)
Indian Falls, IN 46090

DECLARATION

I, Jessica DeLoach, am a litigation assistant employed by Gammon & Grange, P.C. On January 24, 2005, I spoke with Conni S. Owen, Clerk, and Becky [no last name given], the Assistant Clerk, in the City Clerk's Office for Clark County in Dubois, Idaho. I asked Becky whether Dubois is incorporated as a city and she said yes. In addition, Ms. Owen affirmatively confirmed that Dubois is the County Seat for Clark County.

This statement is made under penalty of perjury.

Signed on the 24th day of January 2005.



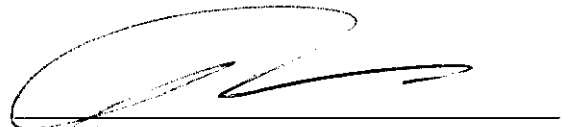
Jessica Marie DeLoach, Litigation Assistant
Gammon & Grange, P.C.

DECLARATION

I, Timothy R. Obitts, Esq., an attorney at Gammon & Grange, P.C. spoke with Diane Gempler, the City Clerk and Treasurer of Ammon, Idaho. In our discussion Ms. Gempler conveyed the following information: Ammon is a bedroom community of Idaho Falls. The majority of its residents work in Idaho Falls. Ammon is dependent upon the County of Bonneville for its police, schools, courts, and much of its services, and everyone has to go to Idaho Falls for their health care needs and hospitals. Ammon does not have its own newspaper, rather, the residents receive the Post Registrar of Idaho Falls. Ammon does not have its own post office, nor does it have its own phone book. The residents and businesses of Ammon are listed in the Idaho Falls phone book and the post offices are located in Idaho Falls. Ammon has over 5 miles of shared border with the city limits of Idaho Falls. Ms. Gempler opined that Ammon is trying to be separate, but at this date it is just a suburb of Idaho Falls.

This statement is made under penalty of perjury.

Signed on the 24th day of January 2005.

A handwritten signature in black ink, appearing to read 'Timothy R. Obitts', is written over a horizontal line.

Timothy R. Obitts, Esq.
Gammon & Grange, P.C.

TECHNICAL STATEMENT

This Technical Statement is filed on behalf of Laramie Mountain Broadcast, LLC ("LMB") in support of a Counterproposal in regards to MB Docket No. 04-427, RM-11127.

The Counterproposal seeks to allot channel 283A to Dubois, Idaho in place of allotting channel 283A to Ammon, Idaho.

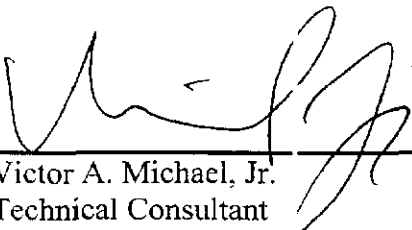
Figure 1 shows a channel spacing study that shows that channel 283A can be allotted to Dubois, ID without site restriction at the community coordinates of N 44 - 10' - 34", W 112 - 13' - 48".

Figure 2 shows that a Zip Code study for Dubois shows that there is currently no city grade service from either an AM or FM station to the community of Dubois.

Figure 3 shows that a Zip Code study for Ammon, Idaho shows that there are no less than 14 city grade signals serving the community of Ammon, Idaho.

In summary, channel 283A can be allotted to the community of Dubois, Idaho as the communities first local service, without any changes being made to any other stations or existing allotments.

Respectfully Submitted:



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Technical Consultant
Laramie Mountain Broadcasting, LLC
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Cheyenne, WY 82009
307-778-9318
307-632-9349(fax)
vicmichael@aol.com

Figure 1 -- Channel Spacing Study - Channel 283A
Dubois, Idaho

REFERENCE
44 10 34 N
112 13 48 W

CLASS = A
Current Spacings

DISPLAY DATES
DATA 01-22-05
SEARCH 01-23-05

----- Channel 283 - 104.5 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
RADD	ADD 283A	Ammon	ID 82.77	167.0	115.0	-32.23
KBZM	LIC 284C1	Big Sky	MT 137.19	26.4	133.0	4.19
KIKX	LIC 284C	Ketchum	ID 184.28	237.8	165.0	19.28
KORR.A	APP-N 281C1	American Falls	ID 147.75	189.1	75.0	72.75
KORR.A	APP-N 281C1	American Falls	ID 147.75	189.1	75.0	72.75
KORR	LIC-N 281C1	American Falls	ID 147.75	189.1	75.0	72.75

AM FM Zip Signal

FIGURE 2

Up

The data returned by this program is derived from the FCC's CDBS AM and FM database, as of July 30, 2004.*

V-Soft Communications provides this data free or charge as a service to its customers and friends.

WARRANTY DISCLAIMERS AND LIABILITY LIMITATIONS

DATA, AS PRESENTED, ARE DISTRIBUTED AND PROVIDED "AS IS" AND WITH NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED. USE AT YOUR OWN RISK.

Enter a US zip code to find the signal strength of AM or FM stations serving the location. (AM stations can be identified by their frequency in kHz or the all upper case city of license)

100+ dBu Extremely strong

80+ dBu Very Strong

70+ dBu Strong Principal city coverage

60+ dBu Good coverage

50+ dBu Weaker Coverage - may have interference

* Coverage predictions use the standard FCC method, directional antenna patterns, if used by the stations, and for FM stations the 30 arc-second NGDC terrain elevation database. AM daytime station coverage is predicted. 50 dBu is the cutoff for prediction for this signal strength retrieving program. Many stations may have coverage past the 50 dBu, however the majority of FM stations are protected from interference by the FCC only to their 60 dBu, any coverage past that signal strength value would depend on whether there are other stations causing interference, which cannot be reliably predicted using the standard methods employed herein.

(Need a Zip Code? - Click USPS Zip+4)

Click here to look up zip code signal locations by call sign. (Please be patient, this page takes more than a minute to load.)

Zip Code DUBOIS, ID

Call Sign	Signal in dBu	mV/m	City of License	State	Frequency	Facility ID
KID	72.1	4.03	IDAHO FALLS	ID	590	22194
KBYI	65.6	1.90	Rexburg	ID	100.5	56345
KWYSFM	64.1	1.61	Island Park	ID	102.9	83882
KEZQ	64.1	1.61	West Yellowstone	MT	92.9	23306
KUPI	60.5	1.06	AMMON	ID	980	55238
KLCE	60.0	1.00	Blackfoot	ID	97.3	71772
KCVI	60.0	1.00	Blackfoot	ID	101.5	71785

KID-FM	59.6	0.96	Idaho Falls	ID	96.1	22195
KADQFM	59.1	0.90	Rexburg	ID	94.3	64698
KALL	58.4	0.83	NORTH SALT LAKE CIT	UT	700	23480
KRXK	57.9	0.79	REXBURG	ID	1230	12664
KBJX	57.8	0.78	Shelley	ID	106.3	73616
KUPIFM	57.3	0.73	Idaho Falls	ID	99.1	55237
KGWV	56.6	0.67	BELGRADE	MT	640	11011
KQEO	56.5	0.67	Idaho Falls	ID	107.1	87926
KSSL	55.6	0.60	IDAHO FALLS	ID	1260	71775
KGTM	55.4	0.59	Rexburg	ID	98.1	12665
KIGO	55.0	0.57	ST. ANTHONY	ID	1400	22622
KSLJ	54.1	0.51	BLACKFOOT	ID	690	71780
KFTZ	52.7	0.43	Idaho Falls	ID	103.3	18116
KTHK	52.2	0.41	Idaho Falls	ID	105.5	33447

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AM FM Zip Signal

FIGURE 3

Up

The data returned by this program is derived from the FCC's CDBS AM and FM database, as of July 30, 2004.*

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(Need a Zip Code? - Click USPS Zip+4)

Click here to look up zip code signal locations by call sign. (Please be patient, this page takes more than a minute to load.)

Zip Code

AMMON, ID

Call Sign	Signal in dBu	nV/m	City of License	State	Frequency	Facility ID
KBJX	96.8	58.82	Shelley	ID	106.3	73616
KUPIFM	96.3	55.16	Idaho Falls	ID	99.1	55237
KFTZ	95.6	50.58	Idaho Falls	ID	103.3	18116
KQEO	95.5	59.65	Idaho Falls	ID	107.1	87926
KTHK	95.5	59.32	Idaho Falls	ID	105.5	33447
KGTM	94.6	53.87	Rexburg	ID	98.1	12665
KID	85.8	19.46	IDAHO FALLS	ID	590	22194

KUPI	85.7	19.20	AMMON	ID	980	55238
KBYI	77.2	7.23	Rexburg	ID	100.5	56345
KSSL	75.3	5.84	IDAHO FALLS	ID	1260	71775
KLCE	72.2	4.09	Blackfoot	ID	97.3	71772
KCVI	72.2	4.09	Blackfoot	ID	101.5	71785
KID-FM	72.1	4.02	Idaho Falls	ID	96.1	22195
KADQFM	71.9	3.94	Rexburg	ID	94.3	64698
K211BD	68.0	2.51	Idaho Falls	ID	90.1	20507
KALL	64.6	1.69	NORTH SALT LAKE CIT	UT	700	23480
KSLJ	64.5	1.68	BLACKFOOT	ID	690	71780
KBRV	63.5	1.50	SODA SPRINGS	ID	790	17437
KMGI	62.0	1.25	Pocatello	ID	102.5	51215
K217EJ	61.5	1.18	Idaho Falls	ID	91.3	88556
KZBQ	61.4	1.17	Pocatello	ID	93.7	28254
KPKY	61.4	1.17	Pocatello	ID	94.9	30246
K206CX	61.2	1.15	Ammon	ID	89.1	12226
KORR	59.9	0.99	American Falls	ID	104.1	28256
KSEI	59.9	0.98	POCATELLO	ID	930	51216
KRXK	59.4	0.94	REXBURG	ID	1230	12664
KCHQ	58.6	0.86	Driggs	ID	102.1	87925
KBLI	58.5	0.84	BLACKFOOT	ID	1620	87152
KLLP	55.0	0.56	Chubbuck	ID	98.5	8413
KVNU	52.0	0.40	LOGAN	UT	610	55459
KIGO	51.4	0.37	ST. ANTHONY	ID	1400	22622
KRSV	50.9	0.35	AFTON	WY	1210	72020
KJAX	50.9	0.35	Jackson	WY	93.3	82088
KZJH	50.7	0.34	Jackson	WY	95.3	65279
KGWV	50.1	0.32	BELGRADE	MT	640	11011

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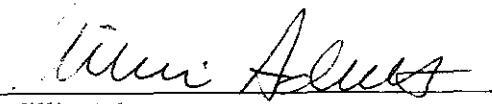
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CERTIFICATE OF SERVICE

I, Millie Adams, in the law offices of Gammon & Grange, P.C., hereby certify that I have sent this 24th day of January, 2005, by first-class, postage prepaid, U.S. Mail, copies of the foregoing COUNTERPROPOSAL to the following:

Mr. John A. Karousos
Assistant Chief, Audio Division
Office of Broadcast License Policy
Federal Communications Commission
445 12th Street, S.W., Room 3-A266
Washington, D.C. 20554

Dennis F. Begley, Esq.
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(counsel for Justin Robinson)



Millie Adams